

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

DUSA PHARMACEUTICALS, INC. and
QUEEN'S UNIVERSITY AT KINGSTON,

Plaintiffs,

v.

NEW ENGLAND COMPOUNDING
PHARMACY, INC.,

Defendant.

Civil Action No. 04-12703 NMG

**MOTION FOR A SECOND EXTENSION OF TIME TO PLEAD OR OTHERWISE
MOVE IN RESPONSE TO COMPLAINT**

Plaintiffs filed this patent action on December 27, 2004. By previous order, a response to the complaint by Defendant New England Compounding Pharmacy, Inc. ("NECP") is due February 17, 2005. For good reasons, NECP hereby moves that the Court grant it a second 30-day extension of time, up to and including March 21, 2005, to plead or otherwise move with respect to the Complaint.

Until today, the parties have had ongoing settlement talks. After phone conversations with plaintiffs' counsel, NECP provided on February 7, 2005, proposed written terms for settlement that it believed should have resolved the case. Today, however, these terms were rejected by plaintiffs. In view of plaintiffs' delay in responding to NECP's settlement proposal and in view of the weight of the allegations made, NECP needs the additional time to complete its investigation of these allegations and plaintiffs' related actions before it will be adequately prepared to move or otherwise plead in response to plaintiffs' complaint.

Per L.R. 7.1, counsel for NECP sought consent by letter and by phone from counsel for plaintiffs, William J. McNichol. Today plaintiffs' counsel finally stated that plaintiffs would oppose this motion.

For these reasons, NECP respectfully requests that the Court grant its motion.

NEW ENGLAND COMPOUNDING
PHARMACY, INC.

Dated: February 16, 2005

/s/ Jolynn M. Lussier
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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing MOTION FOR A SECOND EXTENSION OF TIME TO PLEAD OR OTHERWISE MOVE IN RESPONSE TO COMPLAINT was served upon attorney for plaintiffs William J. McNichol, Jr., Esq. Reed Smith LLP, 2500 One Liberty Place, 1650 Market Street, Philadelphia, PA 19103 by first class mail, postage prepaid on February 16, 2005.
